

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD NOVEMBER 10, 2004
PHOENIX, AZ**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on November 10, 2004, at AZ POST, located at 2643 E. University, Phoenix, AZ

Members Present:

Sheriff Gary Butler, Chairman
Ms. Lisa Flores
Director Dora Schriro
Sergeant Heriberto Zuniga
Deputy Tamatha Villar
Chief Jerry Sheridan
Chief Patricia Huntsman
Dr. Michael Polakowski
Director Dennis Garrett
Mr. Joseph Duarte
Chief Jack Harris
Ms. Laura Reckart, representing Attorney General Terry Goddard

Members Absent:

Sheriff Clarence Dupnik

Staff in Attendance:

Tom Hammarstrom
Lyle Mann
Bob Forry
Gary Maschner
Ted Brandon
Steve Jacobs
Curt Milam
Marie Dryer
Sgt. Rick Watling
Carol Muskus
Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Assistant Attorney General

Guest Roster:

Dean S. Nyhart, ALEA/DPS
Scott Mascher, YCSO
Andy Bacon, YCSO/NARTA

Joe Cappelli, Prescott Valley P.D./NARTA
Clinton L. Woods
Russell Woods
Ed Cibbarelli, CAC
Kathy Sells, NDPS – Window Rock
James Palmer, Coolidge, P.D.
Jon Heiden, AZ Police Corps
Mike Berggren, Phoenix Fire Dept.
Elby Bushong, Phoenix Fire Dept.
Judy Manning, Glendale P.D.
Rich Harper, Tucson P.D.
Paul Felice, DOC
Rod Covey, AZ DPS
Tyesha Bahe, Salt River P.D.
Alfredo Castro, Salt River P.D.
Terry Parish, SALETC

A. CALL TO ORDER

Chairman Butler convened the meeting at 1:33 p.m.

B. INTRODUCTIONS

Executive Director Hammarstrom presented Chief Joe Vernier a plaque in appreciation of his outstanding service to the Arizona law enforcement community while serving as a member of the Board for the past two years.

C. CONSENT AGENDA

Approved unanimously, motion made by Chief Harris, seconded by Director Garrett.

1. Minutes of the Regular Board meeting, held on September 15, 2004, were approved as written.
2. Minutes of the Charging Board meeting, held on September 15, 2004, were approved as written.
3. The next scheduled Regular Board meeting is Wednesday, January 19, 2005, 1:30 p.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.
4. Ministerial Actions:
 - a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Richard F. Conklin	Maricopa Community College Dist.
William P. Keohen	Pima Community College P.D.
Brian P. McAchran	Buckeye Police Department
Jeffrey G. Rogers	Goodyear Police Department
Michael A. Valenzuela	Pascua Yaqui Police Department
Shalene V. Weber	Mohave County Sheriff's Office

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
 - c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.
5. Decertification Case Status Report Update – As of October 25, 2004, the Compliance and Standards Unit has a caseload of 110 active cases. Five cases are ready for initial presentation; 47 cases need further investigation; 3 cases are pending service of or response to a Notice of Complaint or Decision; 9 cases are pending hearing; 10 cases are ready for final action; and 36 cases are waiting for outside action; i.e., a criminal trial or civil service hearing.

6. Income and Expense Statement – September 2004

Funds as of September 1, 2004	\$ 1,199,255.51
CJEF Revenue	462,185.99
Expenditures/Encumbrances	(518,470.07)
Balance for September 30, 2004	\$ 1,142,971.43

7. 2005 Board Meeting Schedule

JANUARY	Wednesday the 19 th at AZ POST Charging Board Meeting: 10:00 a.m. Public Meeting: 1:30 p.m.
FEBRUARY	Wednesday the 16 th at AZ POST Charging Board Meeting: 10:00 a.m.
MARCH	Wednesday the 16 th Location TBA Charging Board Meeting: 10:00 a.m. Public Meeting: 1:30 p.m.
APRIL	Wednesday the 20 th at AZ POST Charging Board Meeting: 10:00 a.m.
MAY	Wednesday the 18 th at AZ POST Charging Board Meeting: 10:00 a.m. Public Meeting: 1:30 p.m.

JUNE	Wednesday the 15 th at AZ POST Charging Board Meeting: 10:00 a.m.
JULY	Wednesday the 13 th in Flagstaff at the Little America Hotel Charging Board Meeting: 10:00 a.m. Public Meeting: 1:30 p.m.
AUGUST	Wednesday the 17 th at AZ POST Charging Board Meeting: 10:00 a.m.
SEPTEMBER	Wednesday the 21 st Location TBA Charging Board Meeting: 10:00 a.m. Public Meeting: 1:30 p.m.
OCTOBER	Wednesday the 19 th at AZ POST Charging Board Meeting: 10:00 a.m.
NOVEMBER	Wednesday the 16 th at AZ POST Charging Board Meeting: 10:00 a.m. Public Meeting: 1:30 p.m.
DECEMBER	Wednesday the 14 th at AZ POST Charging Board Meeting 10:00 a.m.

D. REGULAR AGENDA

1. Petition Concerning the AZ POST Drug Experimentation Rule by the Phoenix Fire Department for Recruit William W. Howe. The Phoenix Fire Department has petitioned the Board to determine whether the pre-employment drug usage by Recruit William W. Howe was experimental. On September 16, 2004, an audit of the background investigation file on Recruit William W. Howe was conducted. During the audit it was determined that Recruit Howe's use of marijuana was over the age of 21 and in excess of what is considered experimentation. While serving in the U.S. Army from 1970 to 1971 in Vietnam, he experimented with marijuana. His use continued after his discharge from the Army from 1971 until 1974. He estimated his total usage to be 15 to 20 times.

Ms. Reckart made a motion to grant the petition for a determination that the pre-employment marijuana usage by Recruit William W. Howe was experimental, seconded by Chief Harris. The motion carried with one nay vote.

2. Petition Concerning the AZ POST Drug Experimentation Rule by the Arizona Department of Public Safety for Applicant Ezekiel D. Zesiger. The Arizona Department of Public Safety has petitioned the Board to determine whether the pre-employment drug usage by Applicant Ezekiel D. Zesiger was experimental. Applicant Zesiger, age 26, admits to using marijuana 25 times or less in his life, with the last usage occurring in

March 2000 at age 21. He used marijuana approximately 22 times before age 21 and believes he used marijuana only three times after age 21. His usage exceeds the experimentation rule by 5 uses or less.

Director Garrett recused himself from participation and voting on this matter. Chief Harris made a motion to grant the petition for a determination that the pre-employment marijuana usage by Ezekiel Zesiger was experimental, seconded by Deputy Villar, motion carried with one nay vote.

3. POTF Grant for Completion of the CARLOTA Driver Training Facility. Between 2000 and 2002 the Board granted a total of \$720,000.00 to Central Arizona College (CAC) to complete the first stage of construction of a driver training track at the Central Arizona Law Enforcement Officer Training Academy (CARLOTA). This track represents the first component of a peace officer skills training facility that, when completed, will provide training ranges for all law enforcement high risk responses. Arizona POST has designated the CAC facility as a preferred training site for POST high risk instructor training, and will make substantial use of the facility to present training calendar programs. Additionally, under the terms of the Board's agreements with CAC, the facility will be made reasonably available to any Arizona law enforcement agency that wishes to use it for in-service training activities.

The final phase of construction of the driver training track is the provision of a dynamic exercise pad. When this pad is complete, the facility will support the complete POST driver training curriculum (currently, students must complete the dynamic exercise portion of the POST curriculum at the Phoenix track).

The cost of completing the track totals \$460,000.00. While CAC has no appropriated funds currently available, the College has agreed to fund half of this cost by deferring a portion of the normal POTF cost avoidance payments it would receive for CARLOTA graduates over the course of the next five years. This means that if the Board approves the grant request, the initial grant will be for \$460,000.00, but CAC will reimburse half of that amount via the deferred cost avoidance method.

Deputy Villar made a motion that staff be directed to enter into an agreement with Central Arizona College to provide grant funding to be used for the construction of a dynamic exercise pad at the CARLOTA driver training facility, seconded by Ms. Flores, motion carried unanimously.

4. POTF Grant for Completion of the Navajo County Driver Training Facility. On May 19, 2004, the Board approved its 2004/2005 fiscal year budget. Under the "Positive and Negative Adjustments" section of that budget the Board approved support for the construction of a Northern Arizona driver training track in the event that funds become available. The Navajo County Sheriff's Office, in partnership with others collectively known as "Northeast Arizona Training Center, Inc." have received and dedicated a

suitable parcel of land for construction of a joint emergency response training center that will serve all emergency responders including law enforcement. The design of the training center includes the construction of a driver training pad which will accommodate driver training for all emergency responders, and which will support all components of the POST driver training curriculum.

The Navajo County Sheriff's Office has requested a \$650,000.00 grant from the POTF to be utilized for the construction of the track. This amount will be the total amount expected from POST, and will be sufficient to complete the track. This is made possible due to commitments from Navajo County and other governmental entities to perform much of the site preparation and actual construction of the driver training track utilizing County resources. Other partners will contribute to development of the training center by providing classrooms, firearm ranges, and other enhancements. Any grant agreement entered into by the Board's staff will specify, and ensure appropriate access to the facility for law enforcement training.

Chairman Butler recused himself from participation and voting on this matter. Chief Harris made a motion to direct staff to enter into an agreement with the Navajo County Sheriff's Office to provide POTF grant funding in the amount of \$650,000.00 to be used for the construction of a driver training facility at the Northeast Arizona Training Center, seconded by Director Garrett, motion carried unanimously.

E. LEGISLATIVE UPDATE

No report.

F. SUMMARY OF CURRENT EVENTS

In 1998 the Board committed to ten year intergovernmental agreements with the cities of Phoenix and Tucson that provided substantial POTF capital support for ALEA and SALETC (POST's primary basic training academies). This strategic decision established basic training infrastructure as the Board's spending priority from 1998 through 2008. Due to a variety of factors, the Board retired this debt early during FY 2003/04, thus making funds available for other projects through 2008.

At the July Board meeting in Flagstaff, the Board directed staff to convene a Basic Training and Facility Advisory Group to consider Arizona's law enforcement training facility needs and spending priorities for the next five years. Executive Director Hammarstrom reported that this has been accomplished and the Basic Training and Facility Advisory Group will consist of Chief of Custody Jerry Sheridan of the Maricopa County Sheriff's Office, who will serve as the Chairman; Chief Jack Harris, Phoenix Police Dept.; Mr. Tom Ruggles, Director of Arizona Western College; Chief Jim Griffith, Show Low Police Dept.; Sheriff Larry Dever, Cochise County Sheriff's Office; Chief Jim Palmer, Coolidge Police Dept.; Assistant Director Rod Covey, AZ DPS; Chief Richard Miranda, Tucson Police Dept.; Chief Joe Vernier, Sedona

Police Dept.; Chief Ken Witkowski, Gila River Police Dept.; and Mr. Pat Scherden, statewide Secretary of the Fraternal Order of Police. This committee will convene some time in January.

Also, Chief Robbie Robinson of Yuma, who has been a member of the AZ POST Finance Advisory Group for many years, has accepted the Chairmanship of the Finance Advisory Group.

G. COMMITTEE UPDATE

No report.

H. REPORTS

1. Basic Training

ALEA – Commander Dean Nyhart, the new Commander of ALEA, reported that currently there are four recruit classes in progress, with a total of 143 recruits, representing 17 agencies. As far as capital improvements, the recruits are now at the Windgate Hotel, a major improvement over the Days Inn. ALEA just signed a new contract with Bishop Family Foods, which is a cafeteria-style eating for the recruits that are housed at the Windgate Hotel.

SALETC – As the new Commander of SALETC, Commander Rich Harper reported that they started a new class October 11th with 62 recruits, they are now down to 47 recruits. The next class is scheduled for February 7th, and they are already overbooked. As far as capitol projects, Commander Harper just recently submitted \$12.5 million worth of unmet budgeted needs for facilities for the academy. Most of those involve increasing the number of classrooms. In addition, they are working with the Risk Management Department of the City of Tucson to develop a teen safe driving program, with minor improvements to be made to the driving track. It is felt that law enforcement has a tremendous amount of information and education to offer to the youth in the community.

NARTA – Commander Andy Bacon, the new Commander at NARTA, reported that they are currently in Week 13 of Class #17, with 27 recruits representing 12 agencies. This class will graduate December 10th. NARTA has been hosting a number of Advanced Officer Training at the academy in cooperation with AZ POST. The next class will begin January 17th, and currently there are 44 slots reserved.

Executive Director Hammarstrom stated that NARTA has expressed an interest in POTF funding in the future to help locate a drivers training facility to serve Yavapai County, Verde Valley, and the Coconino County area.

NLETA – Ms. Kathy Sells reported that currently they started with 48 cadets; they are now down to 38 cadets.

Glendale Community College LETA – Lt. Judy Manning from the Glendale Police Department reported that she has just been appointed to work with Director Jerry McCown and the GCC Training Academy to develop a full-time police academy for the west side agencies. In the future they will be visiting ALEA, NARTA, SALETC and CARLOTA. It is anticipated that the first academy class will start in the spring of 2006. GCC LETA presently has two classes in progress - Class #50 is scheduled to graduate with full certification on December 17; out of the 17 cadets enrolled in this class, 7 cadets are from agencies and 6 are open enrollment cadets. Class #51 is scheduled to graduate with limited authority peace officer status on December 17th, and will retain full certification on May 19, 2005. They have 20 cadets representing 6 agencies with 11 open enrollment cadets.

2. Police Corps

Director Jon Heiden reported that six cadets will be graduating on November 12th, representing 4 agencies. The graduating cadets will be going to Pinetop/Lakeside, Pinal County, Surprise and Flagstaff.

3. Department of Corrections

Director Schriro reported that DOC is continuing to recruit. In particular, they are focusing their efforts on 1,000 new state Level One beds that are coming on-line in December. They are also aggressively pursuing a significant pay raise.

4. Arizona Regional Community Policing Institute

Executive Director Kush reported that they have presented 115 training sessions to approximately 4,000 people. They have been focusing on anti-terrorism training with 40 training sessions presented to over 1800 officers. Other training consists of domestic violence, ethics, inter-generational dialogue, and town halls.

I. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Elaine Anderson (Nez) – Navajo Division of Public Safety – The Board considered comments from Asst. A.G. Diana Stabler. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Deputy Villar, motion carried unanimously.

Case #2 – Gary A. Bluemke – University of Arizona Police Department – Dr. Polakowski made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment of certification), seconded by Ms. Reckart, motion carried unanimously.

Case #3 – Mark O. Cooper – ASU Department of Public Safety – Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Deputy Villar, motion carried unanimously.

Case #4 – John H. Edwards – Phoenix Police Department – *Chief Harris recused himself from participation and voting on this case.* Director Garrett made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Deputy Villar, motion carried.

Case #5 – O'Brien D. Goseyun, San Carlos Tribal Police – Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for one year, beginning on May 16, 2003, seconded by Sgt. Zuniga, motion carried unanimously.

Case #6 – James D. Koubeck – Flagstaff Police Department – Ms. Flores made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment of certification), seconded by Chief Harris, motion carried unanimously.

Case #7 – Pablo Provencio – Mohave County Parks Police – Chief Harris made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Sheridan, motion carried unanimously.

Case #8 – Clinton L. Woods – Willcox Department of Public Safety – The Board considered comments by Asst. A. G. Diana Stabler and Clinton Woods. Director Garrett made a motion to adopt the Findings of Fact and Conclusions of Law and delay eligibility to apply for peace officer certification for one year, until November 10, 2005, seconded by Ms. Flores, motion carried with one nay vote.

J. CALL TO THE PUBLIC

Diana Stabler wanted to thank all of the veterans on the Board and in the audience for their service to this county, and asked that everyone remember the veterans on Veteran's Day, November 11th.

K. ADJOURN

Chairman Butler adjourned the meeting at 2:25 p.m.

Dated November 17, 2004

Lois Sherlock, Recording Secretary